

REMARKS/ARGUMENTS

Claims 1-36 were in the application as filed. Claims 6, 7, 24, and 25 have been withdrawn from further consideration pursuant to the Examiner's requirement for restriction.

Claims 1-5, 8-23, and 26-36 stand rejected. Claims 1, 8, 17, 19, 26, and 35 have been amended in this paper. Paragraphs [0028] and [0030] have been amended to clarify the scope of reference numerals used in the drawings.

No new matter has been added by the foregoing amendments, full support therefor being shown in the drawings and specification as filed. All claims remaining in the application are believed to now be in condition for allowance.

Reconsideration and reexamination of the application is respectfully requested in view of the referenced amendments and the following remarks.

Objection to the Specification

The specification stands objected to as allegedly failing to comply with 37 CFR §1.75(d)(1). The objection is traversed.

The Examiner asserts that the specification fails to provide proper antecedent basis for the claimed subject matter in that it fails to provide proper antecedent basis for the phrase "the mounting frame." The specification and drawings describe and illustrate a mounting bracket. The claims have been amended to change the phrase "mounting frame" to "mounting bracket," thereby removing the grounds for the objection.

Applicant requests the withdrawal of the objection.

Objection to the Drawings

The drawings stand objected to as allegedly failing to comply with 37 CFR §1.84(p)(4). The objection is traversed.

The Examiner asserts that the drawings do not include reference signs mentioned in the description. Specifically, the Examiner asserts that paragraph 0028, lines 7-8, of the specification discloses reference numerals 43 and 45 in the phrase "the interlocking mounting details 42-46," which are not shown in the drawings. Paragraphs 0028 and 0030 have been amended to change the phrase "42-46" to the phrase "42, 44, 46," each of which is shown in the drawings, thereby removing the grounds for the objection.

Applicant requests the withdrawal of the objection.

Rejection Under 35 U.S.C. §112, ¶2

Claims 17 and 35 stand rejected under 35 U.S.C. §112, ¶2, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is traversed.

The Examiner asserts that the phrase "the tilt actuator" lacks proper antecedent basis. Claim 17 has been amended to change its dependency from claim 1 to claim 8. Claim 35 has been amended to change its dependency from claim 19 to claim 26. Both claim 8 and claim 26 call for a tilt actuator, thus providing the proper antecedent basis for the tilt actuator called for in claims 17 and 35.

Applicant requests the withdrawal of the rejection, and the allowance of claims 17 and 35.

Rejection Under 35 U.S.C. §102(b)

Claims 1, 12, 13, 16, 18, 19, 30, 31, 34, and 36 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 4,488,778 to Polzer et al. The rejection is traversed.

Polzer '778 discloses an external vehicle rearview mirror 1 having a glass support plate 9 for supporting the reflective element 9.9, and a fastening plate 5.1 having a clamp ring 7. The clamp ring 7 is provided with four curved circumferentially distributed grooves 7.8. The glass support plate 9 has four spaced, T-shaped extensions 9.3 adapted for insertion into the grooves 7.8. When the glass support plate 9 is rotated relative to the clamp ring 7, the spaced extensions 9.3 are locked into the grooves 7.8, thereby fixing the reflective element 9.9 to the fastening plate 5.1.

The claimed invention is not anticipated under §102 unless each and every element of the claimed invention is found in the prior art. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 231 USPQ 81, 90 (Fed. Cir. 1986). To anticipate, a single reference must teach each and every limitation of the claimed invention. *Eolas Technologies Inc. v. Microsoft Corp.*, 399 F.3d 1325, 1335; 73 U.S.P.Q.2D (BNA) 1782 (Fed. Cir. 2005). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The rejection fails to satisfy these standards.

Independent claim 1 has been amended, and, in pertinent part, now calls for a mirror assembly for a motor vehicle, comprising a reflective element assembly, a mounting bracket, and an interlocking fastener assembly comprising a first array of interlocking fasteners attached to and extending away from the mounting bracket, and a second array of interlocking fasteners attached to and extending away from the reflective element assembly and configured to interlock with the first array.

Amended claim 1 is patentable over Polzer '778 because each and every element of amended claim 1 is not found in Polzer '778. Polzer '778 discloses four T-shaped extensions

extending from the glass support plate (analogous to the reflective element assembly of claim 1). However, the clamp ring (analogous to the mounting bracket) does not have fasteners which extend beyond the clamp ring. Rather, the clamp ring is provided with grooves which do not extend beyond the clamp ring into which the T-shaped extensions are inserted. Amended claim 1 calls for interlocking fasteners which extend away from the mounting bracket and away from the reflective element assembly. This structure is not present in Polzer '778. Thus, amended claim 1 is patentable over Polzer '778.

Claims 12, 13, 16, and 18 depend, directly or indirectly, from amended claim 1, and are patentable over Polzer '778 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 1, 12, 13, 16, and 18.

Independent claim 19 has been amended and, in pertinent part, now calls for a motor vehicle comprising at least one mirror system comprising a reflective element assembly, a mounting bracket, and an interlocking fastener assembly comprising a first array of interlocking fasteners attached to and extending away from the mounting bracket, and a second array of interlocking fasteners attached to and extending away from the reflective element assembly and configured to interlock with the first array.

For the reasons discussed above, amended claim 19 is patentable over Polzer '778 because Polzer '778 does not disclose interlocking fasteners that extend away from both the mounting bracket and the reflective element assembly. Because claims 30, 31, 34, and 36 depend, directly or indirectly, from amended claim 19, they are patentable over Polzer '778 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 19, 30, 31, 34, and 36.

Claims 1, 8-12, 14, 17, 19, 26-30, 32, and 35 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 4,877,214 to Toshiaki et al. The rejection is traversed.

Toshiaki '214 discloses a vehicle mirror assembly 10 having a mirror plate 14 held in a mirror holder 15 with a pair of hook-shaped pawls 56 extending away from the mirror holder 15, and a pivot plate 17 having a pair of rectangular openings 65 or slots adapted for receipt of the pawls 56 therein. The mirror holder 15 is attached to the pivot plate 17 by the receipt of the pawls 56 in the openings 65.

Amended claim 1 is patentable over Toshiaki '214 because each and every element of amended claim 1 is not found in Toshiaki '214. Toshiaki '214 discloses two hook-shaped pawls extending from the mirror holder (analogous to the reflective element assembly of claim 1). However, the pivot plate (analogous to the mounting bracket) does not have fasteners which extend beyond the pivot plate. Rather, the pivot plate is provided with openings which do not extend beyond the pivot plate into which the pawls are inserted. Amended claim 1 calls for interlocking fasteners which extend away from the mounting bracket and away from the reflective element assembly. This structure is not present in Toshiaki '214. Thus, amended claim 1 is patentable over Toshiaki '214.

Furthermore, Toshiaki '214 does not disclose a first array of interlocking fasteners attached to the mounting bracket, and a second array of interlocking fasteners attached to the reflective element assembly as called for in amended claim 1. The American Heritage[®] Dictionary of the English Language, 4th Ed., 2000, defines "array" as:

"An orderly, often imposing arrangement.... An impressively large number, as of persons or objects.... *Mathematics*...A rectangular arrangement of quantities in rows and columns, as in a matrix."

The Application uses "array" in a manner consistent with this definition. For example, the Detailed Description refers to "an ordered, regularly-spaced array" of fastening elements. *See, U.S. Patent Application Publication No. US 2004/0109249, para. 0029, ln. 4-5, 12.* The Drawings also illustrate the fastening elements organized in 10 or 11 rows and 10 or 11 columns. *Id., Figures 2, 4-6, 8.*

The pawls and openings of Toshiaki '214 do not constitute an array. Only 2 pawls and 2 openings are disclosed in Toshiaki '214, which is an insufficient number to constitute an array, both by definition and as used in the Application.

Claims 8-12, 14, and 17 depend, directly or indirectly, from amended claim 1, and are patentable over Toshiaki '214 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 1, 8-12, 14, and 17.

For the reasons discussed above, the invention of amended claim 19 is patentable over Toshiaki '214 because Toshiaki '214 does not disclose interlocking fasteners that extend away from both the mounting bracket and the reflective element assembly, and does not disclose an array of fastening elements. Because claims 26-30, 32, and 35 depend, directly or indirectly, from amended claim 19, they are patentable over Toshiaki '214 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 19, 26-30, 32, and 35.

Claims 1-3, 8-17, 19-21, and 26-35 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 4,867,408 to Ozaki. The rejection is traversed.

Ozaki '408 discloses a vehicle mirror assembly 10 having a mirror plate 14 held in a mirror holder 15 with a pair of hook-shaped bendable bearing members 57 extending away from the mirror holder 15, and a holder plate 17 having a pair of studs 58 defining a slot therebetween adapted for receipt of the bearing members 57 therein. The mirror holder 15 is attached to the pivot plate 17 by the receipt of the bearing members 57 in the slots.

Amended claim 1 is patentable over Ozaki '408 because each and every element of amended claim 1 is not found in Ozaki '408. Ozaki '408 discloses two hook-shaped bearing members extending from the mirror holder. However, the holder plate does not have fasteners which extend beyond the pivot plate. Rather, the holder plate is provided with slots which do not extend beyond the holder plate into which the bearing members are inserted. Amended

claim 1 calls for interlocking fasteners which extend away from the mounting bracket and away from the reflective element assembly. This structure is not present in Ozaki '408.

Furthermore, the bearing members and slots of Ozaki '408 do not constitute an array. Only two sets of bearing members and two slots are disclosed in Ozaki '408, which is an insufficient number to constitute an array, both by definition and as used in the Application. Thus, amended claim 1 is patentable over Ozaki '408.

Claims 2, 3, and 8-17 depend, directly or indirectly, from amended claim 1, and are patentable over Ozaki '408 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 1-3 and 8-17.

For the reasons discussed above, the invention of amended claim 19 is patentable over Ozaki '408 because Ozaki '408 does not disclose interlocking fasteners that extend away from both the mounting bracket and the reflective element assembly, and does not disclose an array of fastening elements. Because claims 20, 21, and 26-35 depend, directly or indirectly, from amended claim 19, they are patentable over Ozaki '408 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 19-21 and 26-35.

Rejection Under 35 U.S.C. §103(a)

Claims 4, 5, 22, and 23 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Ozaki '408. The rejection is traversed.

The Examiner asserts that it would have been obvious to modify the plastic material of the mounting panel of Ozaki '408 to include a thermoplastic material or a gas-injected plastic material having a plurality of microscopic voids.

The standards for a finding of obviousness must be strictly adhered to. Simply citing one or more prior art references that illustrate different facets of the invention and then concluding

that it would be obvious to combine the references to create the applicant's invention is wholly inadequate.

A claimed invention is unpatentable if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art....The ultimate determination of whether an invention would have been obvious under 35 U.S.C. §103(a) is **a legal conclusion based on underlying findings of fact.**¹

A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field....Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

Most if not all inventions arise from a combination of old elements....Thus, every element of a claimed invention may often be found in the prior art....However, **identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention**....Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, **there must**

be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant....Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.

The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved....In addition, the teaching, motivation or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references....The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art....Whether the Patent Office Examiner relies on an express or an implicit showing, **the Examiner must provide particular findings related thereto....Broad conclusory statements standing alone are not "evidence."**

In Re Werner Kotzab, 217 F.3d 1365; 55 U.S.P.Q.2d (BNA) 1313 (Fed. Cir. 2000)(citations omitted)(emphasis added).

The Examiner has failed to identify any motivation, suggestion, or teaching of the desirability of modifying Ozaki '408 to arrive at Applicant's invention. There has been no statement identified in Ozaki '408, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the teachings of Ozaki '408, the knowledge of one of ordinary skill in the art, and the

¹ The underlying factual inquiries include (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; and (3) the differences between the claimed invention and the prior art. *Graham v. John Deere Co.*, 383

nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner has failed to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of modifying Ozaki '408. Rather, the Examiner has simply relied upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicant's invention.

Even if the modification of Ozaki '408 were proper, the combination still would not reach Applicant's invention. As discussed above, Ozaki '408 does not disclose interlocking fasteners that extend away from both the mounting bracket and the reflective element assembly, and does not disclose an array of fastening elements, as called for in amended claims 1 and 19. Since claims 4 and 5 depend from amended claim 1, and claims 22 and 23 depend from amended claim 19, these claims also call for interlocking fasteners that extend away from both the mounting bracket and the reflective element assembly, and an array of fastening elements. Thus, claims 4, 5, 22, and 23 are patentable over Ozaki '408.

Applicant requests withdrawal of the rejection, and the allowance of claims 4, 5, 22, and 23.

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Filed: 11/12/2003
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Examiner: Ricky D. Shafer
Group Art Unit: 2872

CONCLUSION

For the reasons discussed above, all claims in the Application are allowable over the prior art of record. Early notification of allowability is respectfully requested. If there are any outstanding issues which the Examiner feels may be resolved by way of telephone conference, the Examiner is cordially invited to contact the undersigned to resolve these issues.

Respectfully submitted,

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Dated: January 4, 2006

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